

2 FAM 250

CUSTOMS PRIVILEGES ACCORDED FOREIGN REPRESENTATIVES IN THE UNITED STATES

(CT:GEN-430; 11-04-2014)
(Office of origin: M/OFM)

2 FAM 251 DIPLOMATIC IMPORTATION PROGRAM

2 FAM 251.1 Tax-and Duty-Free Entry

(CT:GEN-430; 11-04-2014)

The United States extends tax- and duty-free entry privileges to foreign missions, international organizations, and their accredited personnel under the authority of Article 36 of the Vienna Convention on Diplomatic Relations (VCDR), Article 50 of the Vienna Convention on Consular Relations (VCCR), and the International Organization Immunities Act (22 U.S.C. 288 et seq.) (IOIA). The Office of Foreign Missions (M/OFM/PTSB) manages the extension of this privilege where extended to public international organizations under the IOIA, and for bilateral missions, on the basis of reciprocity, in accordance with the counterpart foreign government's tax- and duty-free importation treatment of the U.S. Mission and its members. Such privileges are only available for official articles (articles which are the property of a foreign government or public international organization and will be used only in connection with noncommercial functions) and personal articles (articles which are the property of and for the personal or family use of eligible foreign mission personnel).

2 FAM 251.2 Requesting Customs Clearance

(CT:GEN-430; 11-04-2014)

Under the Foreign Missions Act (FMA), all requests for customs clearance for imports consigned to public international organizations, foreign missions and their members in the United States must be submitted to the M/OFM/PTSB using Form DS-1504, Request for Customs Clearance of Merchandise. Foreign missions, their members, or contracted customs brokers or freight forwarders working on their behalf are not permitted to attempt to facilitate the importation of such shipments using any other form or process. The only exception to this rule is the importation of properly labeled diplomatic pouches, which do not require Form DS-1504 so

long as a detachable "Customs Entry Certificate" is affixed to the shipment's exterior.

2 FAM 251.3 Customs Examination

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- a. In accordance with Article 36.1 of the VCDR, foreign missions and their members are not exempt from "charges for storage, cartage, and similar services."
- b. Article 27 of the VCDR provides for the absolute inviolability of the diplomatic pouch. The Department has long maintained that Article 27 prohibits efforts to inspect a properly labeled pouch, including by x-ray.
- c. The VCDR does not provide any protection against inspection for articles for the official use of the mission not labeled as a diplomatic pouch (i.e., diplomatic mail or diplomatic cargo).
- d. Article 36(2) of the VCDR provides that the personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles other than for the personal use of the agent or his family members, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or his authorized representative.

2 FAM 252 DIPLOMATIC POUCH

(CT:GEN-430; 11-04-2014)

- a. A diplomatic pouch (or "bag") is any properly identified and sealed package, pouch, envelope, bag or other container that is used to transport official correspondence, documents, and other articles intended for official use, between: embassies, legations, consulates, and the foreign office of any government; the headquarters or any other office of a public international organization to which the benefit has been extended under the IOIA and its regional offices in the United States or in a foreign country; or the foreign office of any country with full membership in a public international organization and its mission to that organization.
- b. In accordance with Article 27.3 of the VCDR, properly designated diplomatic pouches "shall not be opened or detained." As a result, the United States does not search properly designated and handled diplomatic pouches, either physically or electronically (e.g., by X-ray), that are moving into, within, or from the United States and considers it a serious breach of the clear obligations of the VCDR for another country to do so.
- c. In accordance with Article 27.4 of the VCDR, diplomatic pouches must bear

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"visible external marks of their character." Therefore, a diplomatic pouch moving into, within, or from the United States must:

- (1) Have readily visible markings on the exterior of the pouch, bag, envelope, crate, or container clearly identifying it in English as a "Diplomatic Pouch";
 - (2) Externally bear the official seal of the sending entity (which may be a lead or plastic seal that is attached to a tie that closes the pouch or a seal affixed to the pouch's exterior);
 - (3) Be addressed to or from the sending government's ministry or department of foreign affairs, its embassies, legations, consular offices, or the headquarters or offices of a public international organization to which the benefit has been extended under the IOIA); and
 - (4) When applicable, all associated shipping documents, such as bills of lading and Air Waybills, should describe the shipment in English as a "Diplomatic Pouch."
- d. In order to allow for the immediate customs entry of all properly designated diplomatic pouches that are imported to the United States, a detachable "Customs Entry Certificate" should be affixed to the shipment's exterior. If a shipment is not properly labeled as a diplomatic pouch or if a properly designated diplomatic pouch arrives in the United States without the required customs entry certificate, then the consignee must submit a complete Form DS-1504 to OFM.

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